

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA	:	CRIMINAL NO. 04-029
	:	
v.	:	DATE FILED: May 27, 2004
	:	
CHAD FRANK	:	VIOLATIONS:
MICHELLE FOISY	:	18 U.S.C. § 371 (conspiracy – 1 count)
	:	18 U.S.C. § 2251(a) (production of child
	:	pornography – 6 counts)
	:	18 U.S.C. § 2252(a)(2) (distribution and
	:	receipt of child pornography – 12 counts)
	:	18 U.S.C. § 2252(a)(4) (possession of child
	:	pornography – 1 count)
	:	Notice of forfeiture

SUPERSEDING INDICTMENT

COUNT ONE

THE GRAND JURY CHARGES THAT:

At all times material to this indictment:

1. From in or about July 2001 to on or about October 2, 2003, in the Eastern District of Pennsylvania and elsewhere, defendants

**CHAD FRANK and
MICHELLE FOISY**

conspired and agreed with each other and with others, known and unknown to the grand jury, including but not limited to, Wayne Verdun George (charged elsewhere), to commit offenses against the United States, that is, to knowingly and intentionally use a minor to engage in sexually explicit conduct for the purpose of producing a visual depiction of such conduct, in violation of Title 18, United States Code, Section 2251(a); and to knowingly receive and distribute material, namely images of minors engaging in sexually explicit conduct, comprising

child pornography that had been mailed, shipped, and transported in interstate commerce, in violation of Title 18, United States Code, Sections 2252(a)(2) and 2256(8)(A).

MANNER AND MEANS

2. It was part of the conspiracy that defendant CHAD FRANK used the Internet, electronic mail, Internet Relay Chat, and electronic bulletin boards: (i) to distribute images of child pornography; (ii) to request and receive images of child pornography; (iii) to exchange information about ways of abusing children, including molesting them while they are sleeping and drugging them to avoid them waking up while they are being molested; (iv) to offer to take photographs of children being abused according to the tastes of other pedophiles; (v) to organize gatherings for groups of Boy Lovers¹ where members could meet children and exchange child pornography; and (vi) to encourage, induce and persuade other co-conspirators to sexually abuse young children, and take photographs of such abuse.

OVERT ACTS

In furtherance of the conspiracy, defendants CHAD FRANK and MICHELLE FOISY, and others known and unknown to the grand jury, committed the following overt acts in the Eastern District of Pennsylvania and elsewhere:

1. On or about April 25, 2002, defendant CHAD FRANK had an electronic conversation with Wayne Verdun George. In this conversation, defendant FRANK stated that he would be able to produce some child pornography using his relative, if George was interested.

2. On or about April 30, 2002, defendant CHAD FRANK had an electronic conversation with Wayne Verdun George. In this conversation, defendant FRANK stated that he

¹According to the BoyChat website, Boy Lover (“BL”) is “a label chosen by men with a physical, emotional, and psychological attraction to prepubescent boys, who do not believe that loving relationships with boys are damaging, so long as the interests of the boys are respected.”

would be getting a toddler “once a week in summer” and asked George to “tell [him] what [he] want[ed] to see and [the defendant would] work towards it.” George responded that he wanted images of digital anal penetration and genitalia.

3. On or about June 20, 2002, defendant CHAD FRANK distributed material, namely, two jpg files titled “MVC-007f.jpg” and “MVC-008f.jpg” containing two photographs of a sleeping toddler known to the grand jury as “L” with his diaper undone to expose his genitals.

4. On or about June 5, 2002, defendant CHAD FRANK specifically requested that George send him all images of child pornography involving pre-pubescent girls in his possession.

5. On or about March 30, 2002, defendant CHAD FRANK encouraged and persuaded defendant MICHELLE FOISY to take digital photographs of the genitals of a pre-pubescent boy known to the grand jury as “AF.” Defendant FOISY took a series of photographs, approximately eight in number of “AF” using a Sony digital camera, and distributed these images to defendant FRANK using the computer. Defendant FRANK received these images and distributed them to Wayne Verdun George through a computer. One of these photographs contained images of sexually explicit conduct.

6. On or about July 24, 2003, defendant CHAD FRANK downloaded from the Internet, a videoclip file depicting sexually explicit conduct between an adult female and a pre-pubescent boy, for the purpose of distributing such file.

7. On or about September 28, 2003, defendant CHAD FRANK downloaded from the Internet, a videoclip file called “Little Girl and Boy 3” showing an adolescent male and

a pre-pubescent girl engaging in sexually explicit conduct, for the purpose of distributing such file.

8. On or about September 28, 2003, defendant CHAD FRANK downloaded from the Internet, a videoclip file titled “Bed Fun 01” containing child pornography, for the purpose of distributing such file.

All in violation of Title 18, United States Code, Section 371.

COUNTS TWO THROUGH SIX

THE GRAND JURY FURTHER CHARGES THAT:

1. On or about each of the dates listed below (each date constituting a separate count of this indictment) in the Eastern District of Pennsylvania and elsewhere, defendant

CHAD FRANK

knowingly and intentionally used, persuaded, induced, enticed, and coerced, and aided and abetted the use of, minors to engage in sexually explicit conduct for the purpose of producing visual depictions of such conduct and used materials that had been mailed, shipped, and transported in interstate and foreign commerce to produce such depictions.

COUNT	DATE	VISUAL DEPICTION(S)
2	September 2, 2001	File titled "MVC664F.jpg" containing a digital photograph of a toddler known to the grand jury as "L" engaging in sexually explicit conduct. File titled "MVC665F.jpg" containing a digital photograph of a toddler known to the grand jury as "L" engaging in sexually explicit conduct. File titled "MVC666F.jpg" containing a digital photograph of a toddler known to the grand jury as "L" engaging in sexually explicit conduct.
3	March 30, 2002	File titled "MVC-717f.jpg" containing a digital photograph of a pre-pubescent male known to the grand jury as "AF" engaging in sexually explicit conduct.
4	April 23, 2002	File titled "MVC002F.jpg," "MVC003F.jpg," "MVC004F.jpg," "MVC005F.jpg," "MVC006F.jpg," "MVC007F.jpg," "MVC008F.jpg," "MVC009F.jpg," "MVC010F.jpg," "MVC011F.jpg," and "MVC012F.jpg" containing eleven digital photographs of a toddler known to the grand jury as "L" engaging in sexually explicit conduct.

5	Spring 2002	A VHS videotape depicting (i) two pre-pubescent males known to the grand jury as “JP” and “MP” engaging in sexually explicit conduct; and (ii) a pre-pubescent male known to the grand jury as “MS” engaging in sexually explicit conduct.
6	September 2003	An eight millimeter videotape of a pre-pubescent male known to the grand jury as “L” engaging in sexually explicit conduct.

All in violation of Title 18, United States Code, Section 2251(a).

COUNTS SEVEN THROUGH SEVENTEEN

THE GRAND JURY FURTHER CHARGES THAT:

1. On or about each of the dates listed below (each date constituting a separate count of this indictment) in the Eastern District of Pennsylvania and elsewhere, defendant

CHAD FRANK

knowingly received and distributed visual depictions of minors engaging in sexually explicit conduct, and the production of those visual depictions involved the use of minors engaging in such sexually explicit conduct, and such visual depictions had been mailed, shipped, and transported in interstate and foreign commerce, by any means including by computer.

COUNT	DATE	RECEIPT OR DISTRIBUTION OF VISUAL DEPICTION(S)
7	November 28, 2001	Received a file titled "Jason.zip" containing twenty-five images of pre-pubescent boys engaging in sexually explicit conduct.
8	December 13, 2001	Received a file titled "GerberLubesUp" containing nineteen images of a pre-pubescent male engaging in sexually explicit conduct.
9	March 30, 2002	Distributed a file titled "MVC-717f.jpg" containing a photograph of a pre-pubescent boy known to the grand jury as "AF" engaging in sexually explicit conduct.
10	April 30, 2002	Received (i) a file titled "NewSuckM" containing five images of a pre-pubescent boy engaging in sexually explicit conduct; (ii) a file titled "maximilianx024.jpg" containing a digital photograph of a pre-pubescent boy engaging in sexually explicit conduct, and (iii) a file titled "Pup4.jpg" containing a digital photograph of a sleeping, pre-pubescent boy engaging in sexually explicit conduct.

11	May 14, 2002	Received a file titled “bfpic.zip” containing twenty-three photographs depicting a pre-pubescent boy engaging in sexually explicit conduct, and a file titled “morebf.zip” containing four images of a naked pre-pubescent boy engaging in sexually explicit conduct.
12	May 16, 2002	Received a file titled “Starfish001cuz” containing a digital photograph of a pre-pubescent male engaging in sexually explicit conduct.
13	May 20, 2002	Received (i) a file titled “jonboy.zip” containing eight images of a pre-pubescent boy engaging in sexually explicit conduct; (ii) a file titled “JOSH.zip” containing twenty-five images of a pre-pubescent boy engaging in sexually explicit conduct; (iii) a file titled “jun.zip” containing twenty-nine images of a pre-pubescent boy engaging in sexually explicit conduct; (iv) a file titled “junior.zip” containing two images of pre-pubescent boys engaging in sexually explicit conduct; (v) a file titled “sleepyhead.zip” containing three images of a sleeping, pre-pubescent boy engaging in sexually explicit conduct; (vi) a file titled “sleepyjason.zip” containing sixty-eight images of a sleeping, pre-pubescent boy engaging in sexually explicit conduct; (vii) a file titled “JD_14.jpg” containing an image of a pre-pubescent boy engaging in sexually explicit conduct; and (viii) a file titled “JD_17.jpg” containing an image of a pre-pubescent male engaging in sexually explicit conduct.
14	May 25, 2002	Received a file titled “MMR.zip” containing seven images of a pre-pubescent male engaging in sexually explicit conduct; and a file titled “MMR102.jpg” containing an image of a sleeping pre-pubescent boy engaging in sexually explicit conduct.
15	June 4, 2002	Received five files titled “Dsc00849.jpg,” “Dsc00864.jpg,” “Dsc00857.jpg,” “Dsc00866.jpg,” and “Dsc00865.jpg” containing five images of a naked toddler engaging in sexually explicit conduct.
16	June 5, 2002	Received a file titled “NudeGirl102.jpg” containing a digital photograph of a pre-pubescent girl engaging in sexually explicit conduct; and a file titled “extro.zip” containing eight images of two pre-pubescent girls engaging in sexually explicit conduct.

17	June 20, 2002	Received two files titled "MVC-007f.jpg" and "MVC-008f.jpg" containing two photographs of a sleeping toddler known to the grand jury as "L" engaging in sexually explicit conduct.
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All in violation of Title 18, United States Code, Section 2252(a)(2).

COUNT EIGHTEEN

THE GRAND JURY FURTHER CHARGES THAT:

1. On or about October 2, 2003, in the Eastern District of Pennsylvania,
defendant

CHAD FRANK

knowingly possessed the following films, video tapes, and other material which contained visual depictions of minors engaging in sexually explicit conduct, and the production of those visual depictions involved the use of minors engaging in such sexually explicit conduct, and such visual depictions had been transported in interstate and foreign commerce, and had been produced using materials which had been transported in interstate and foreign commerce:

a. A file titled "aaroncn6.jpg" downloaded from the Internet containing a composite photograph of the head of a pre-pubescent celebrity known to the grand jury and the nude body of a pre-pubescent male with an erection.

b. A file titled "Bath_005.jpg" downloaded from the Internet containing a photograph of a nude, pre-pubescent boy.

c. A file titled "Andrew 21" downloaded from the Internet containing a photograph of pre-pubescent boy's penis.

d. A file titled "Andrew 43" downloaded from the Internet containing a photograph of a pre-pubescent boy engaging in sexually explicit conduct.

e. A file titled "Atrail" containing a photograph of two pre-pubescent boys engaging in sexually explicit conduct.

f. Three files called “ac-trib05.jpg,” “ac-trib09.jpg,” and “ac-trib05.jpg” containing three composite photographs of the head of a pre-pubescent celebrity known to the grand jury and the body of a nude, pre-pubescent boy.

g. A file titled “Mar17-30.jpg” downloaded from the Internet containing a photograph of two pre-pubescent males engaging in sexually explicit conduct.

h. Three files titled “_VC-543F.JPG,” “_VC-544F.JPG,” and “_VC-545F.JPG” containing three photographs of a sixteen-year old female known to the grand jury as “TK” engaging in sexually explicit conduct. These photographs were produced using materials that had traveled in interstate and foreign commerce.

i. Three files titled “MVC664F,” “MVC665F,” and “MVC666F” containing digital photographs of a toddler known to the grand jury as “L” engaging in sexually explicit conduct. These photographs were produced using materials that had traveled in interstate commerce.

j. A videoclip file downloaded from the Internet depicting a pre-pubescent boy engaging in sexually explicit conduct.

k. A videoclip file called “Little Girl and Boy 3” downloaded from the Internet showing an adolescent male and a pre-pubescent girl engaging in sexually explicit conduct.

l. A videoclip file titled “Bed Fun 01” downloaded from the Internet containing child pornography.

m. An eight millimeter videotape depicting a pre-pubescent boy known to the grand jury as “L” engaging in sexually explicit conduct. This videotape was produced using materials that had traveled in interstate and foreign commerce.

n. A VHS videotape depicting three pre-pubescent boys known to the grand jury as “MS,” “JP,” and “MP” engaging in sexually explicit conduct. This videotape was produced using materials which had traveled in interstate commerce and foreign commerce.

All in violation of Title 18, United States Code, Section 2252(a)(4).

COUNT NINETEEN

THE GRAND JURY FURTHER CHARGES THAT:

1. On or about March 30, 2002, in the Eastern District of Pennsylvania and elsewhere, defendant

MICHELLE FOISY

knowingly and intentionally used, persuaded, induced, enticed, and coerced a minor to engage in sexually explicit conduct for the purpose of producing visual depictions of such conduct and used materials that had been mailed, shipped, and transported in interstate and foreign commerce to produce such depictions.

In violation of Title 18, United States Code, Section 2251(a).

COUNT TWENTY

THE GRAND JURY FURTHER CHARGES THAT:

1. On or about March 30, 2002, in the Eastern District of Pennsylvania and elsewhere, defendant

MICHELLE FOISY

knowingly distributed a visual depiction of a minor engaging in sexually explicit conduct, namely, a file containing a digital photograph of the genitals of a pre-pubescent boy known to the grand jury as “AF,” and the production of such visual depiction involved the use of a minor engaging in such sexually explicit conduct, and such visual depiction had been mailed, shipped, and transported in interstate and foreign commerce, by any means including by computer.

In violation of Title 18, United States Code, Section 2252(a)(2).

NOTICE OF FORFEITURE

1. As a result of the violations of Title 18, United States Code, Sections 2251(a) and 2252(a)(2) and (4), set forth above, defendants

**CHAD FRANK and
MICHELLE FOISY**

shall forfeit to the United States of America the following:

- a. Any visual depiction described in §§ 2251 or 2252, or any book, magazine, periodical, film, videotape, or other matter which contains any such visual depiction, which was produced, transported, mailed, shipped, or received in violation of 18 U.S.C. §§ 2251 and 2252;
- b. Any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from such an offense; and
- c. Any property, real or personal, used or intended to be used to commit or to promote the commission of such offense, including but not limited to:
 - Compaq Central Processing Unit Serial No. 3H9ACTEZIV
 - Sony digital camera
 - JVC Camcorder
 - 1 VHS videotape
 - 1 eight millimeter videotape
 - IBM laptop, Serial No. 044NN

2. If any of the property subject to forfeiture, as a result of any act or omission of the defendants:

- cannot be located upon the exercise of due diligence;
- has been transferred or sold to, or deposited with, a third party;
- has been placed beyond the jurisdiction of the court;
- has been substantially diminished in value; or

- has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to Title 18, United States Code, Section 2253(o), to seek forfeiture of any other property of the defendant up to the value of the property subject to forfeiture.

All pursuant to Title 18, United States Code, Section 2253.

A TRUE BILL:

GRAND JURY FOREPERSON

**PATRICK L. MEEHAN
UNITED STATES ATTORNEY**